

STATE OF MICHIGAN
COURT OF APPEALS

In the Matter of CODY ALLEN LAMBERT,
RICHARD ALEX MARYEA, and JONTHAN
MICHAEL MARYEA, Minors.

FAMILY INDEPENDENCE AGENCY,

Petitioner-Appellee,

v

ROSE MARIE LAMBERT,

Respondent-Appellant,

and

BRANDON LEE COTTRELL,

Respondent.

UNPUBLISHED

March 10, 2005

No. 256955

Kalamazoo Circuit Court

Family Division

LC No. 01-000220-NA

Before: Murray, P.J., and Markey and O’Connell, JJ.

PER CURIAM.

Respondent-appellant Rose Marie Lambert (respondent) appeals as of right from the order terminating her parental rights pursuant to MCL 712A.19b(3)(c)(i), (g), and (j). We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

The trial court held two trials in this case, each following a separate termination petition. After the first, the trial court found that petitioner had not carried its burden of proving a basis for termination of parental rights, focusing more on respondent’s relations with petitioner than on those with her children, and concluding that petitioner had become involved in a “power struggle” with respondent. The court did, however, order that the children remain in foster care. Respondent then filed a motion that the children be returned to her custody, but the court denied it. About a year after the first termination petition was filed, petitioner again sought termination. The trial court held a two-day trial and found that the three grounds for termination had been established.

The three grounds supporting termination in this case are: MCL 712A.19b(3)(g), which involves a parent's failure to provide the child with proper care or custody; MCL 712A.19b(3)(j), which involves the likelihood that the child will suffer serious harm given the parent's conduct and capacity to parent; and MCL 712A.19b(3)(c)(i), which states, "The conditions that led to the adjudication continue to exist and there is no reasonable likelihood that the conditions will be rectified within a reasonable time considering the child's age." In reviewing a trial court's termination order, we review legal issues de novo. *In re CR*, 250 Mich App 185, 200; 646 NW2d 506 (2002). We review for clear error the trial court's findings of fact. *In re Sours Minors*, 459 Mich 624, 633; 593 NW2d 520 (1999).

Respondent first argues that the trial court erred in finding that grounds for termination existed. We disagree. Respondent demonstrated a pattern of entering abusive relationships, beginning with the father of her first child. She then married a man who physically abused her and her oldest son. She then began an abusive relationship with a woman who forcibly cut the oldest child's hair and wrote "I am a girl" on his chest in marker then sent him out shirtless to play with other children. Furthermore, there was extensive evidence that the children were so neglected that their teeth were rotting. There was detailed evidence that all the children suffered serious psychological trauma as a result of respondent's abusive relationships.

In the year between the denial of the first petition and the order granting the second, respondent had been arrested and jailed twice. She had held a job for less than half of the time, had begun two new relationships, and had moved several times. These facts alone, together with testimony about the psychological harm the children would experience from indefinite placement in temporary foster care, were enough to establish that all three grounds for termination were proven by clear and convincing evidence. The trial court did not commit clear error in so finding. The balance of respondent's challenges are equally unavailing. While respondent showed minimal improvement in maintaining employment, this one factor did not outweigh the other factors that favored termination. Therefore, the trial court did not err when it terminated respondent's parental rights. *In re Powers Minors*, 244 Mich App 111, 119; 624 NW2d 472 (2000).

Respondent argues that the trial court was precluded from granting the second termination petition because it denied the first. We disagree. In denying the first petition, the trial court found a lack of clear and convincing evidence that grounds for termination existed, but found unresolved problems relating to the children and respondent's ability to parent them. Therefore, the court ordered the children to remain in foster care and retained jurisdiction. It properly considered the second termination petition and did not commit clear error in granting it. MCR 3.966(A).

Respondent next argues that the trial court erred in not finding termination to be contrary to the best interests of the minor children. We disagree. Pursuant to MCL 712A.19b(5), the trial court was obligated to order termination unless it found termination clearly contrary to the children's best interests. As we have said, there was evidence that all three minor children were severely traumatized after being abused by respondent's partners. Because of respondent's emotional state and unreliability, there was a substantial risk that abuse would occur again if they were returned to her care. Evidence also suggested that further prolongation of temporary foster care, which had already continued for about three years by the time termination was ordered,

would impede the children's mental health and healing. Therefore, the trial court did not clearly err when it failed to find that termination would be contrary to the children's best interests.

Affirmed.

/s/ Christopher M. Murray

/s/ Jane E. Markey

/s/ Peter D. O'Connell